

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

ORIGINAL

RECEIVED

JUN 29 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of Sections of)
the Cable Television Consumer)
Protection and Competition)
Act of 1992: Rate Regulation)

MM Docket No. 92-266

COMMENTS ON COMMERCIAL RATES

Robert J. Sachs
Howard B. Homonoff
CONTINENTAL CABLEVISION, INC.
The Pilot House
Lewis Wharf
Boston, MA 02110
(617) 742-9500

Jonathan Myers
KBLCOM, Incorporated
1200 Smith Street
Suite 1800
Houston, TX 77002
(713) 659-5411

Wesley R. Heppler
Paul Glist
Matthew P. Zinn
COLE, RAYWID & BRAVERMAN
1919 Pennsylvania Avenue, N.W.
Suite 200
Washington, D.C. 20006
(202) 659-9750

June 29, 1994

No. of Copies rec'd _____
List ABCDE _____

OT 4

Table of Contents

Summary	ii
I. The 1992 Cable Act Does Not Apply To Commercial Rates	1
II. There Are No Legal Or Policy Reasons To Regulate Commercial Rates	3
A. How And Why Commercial Rates Are Set Today	3
1. Office Buildings	3
2. Bars And Restaurants	9
3. Hotels And Motels	11
B. There Is A Difference Between Wholesale And Retail Transactions	12
C. Commercial Rates Should Be Left To The Marketplace	13
D. Not Regulating Commercial Rates Serves The Public Interest	15
III. Conclusion	16

Summary

The 1992 Cable Act was designed to protect residential consumers. In the view of Continental and KBLCOM, nowhere does the Act or its legislative history indicate that Congress was concerned with the rates charged to commercial cable clients. Moreover, there is no need to regulate commercial rates. Cable systems traditionally were not constructed, or even designed, to serve commercial areas. Service to commercial clients thus entails expansion of the cable network, which is extremely costly. In addition, installation costs are significantly greater for commercial buildings. These high costs are reflected in the rates charged to commercial users. The commercial pricing structure also reflects the fact that service to such establishments is a wholesale transaction. Unlike residential subscribers, commercial users of cable service are not the final consumers. They resell this bulk service to their customers through the price of food and beverage and through the price of office visits and service charges. This is thus a very different type of transaction than the provision of service to residential subscribers.

Due to the high costs of serving the commercial cable services market, only a small percentage of commercial establishments are wired or served by cable. In fact, the commercial cable services market is very competitive. Alternative wireless providers have a significant advantage over cable in most commercial areas because there is no existing cable infrastructure. The wireless technologies have few problems reaching a business, and it is much cheaper for a wireless competitor to install a dish or antenna than it is for a cable operator to extend its plant to a commercial establishment. With program access and no franchise fees or other obligations, wireless companies are formidable competitors in the

commercial market. There is thus no rational reason for the Commission to to regulate commercial rates.

If cable operators are denied the economic flexibility to compete with alternative video providers to serve commercial clients, they will not have the incentive to extend their networks to construct the information superhighway and to compete with the telephone companies. This would be a tragic blow to the nation's communications infrastructure development. The Commission needs to focus on the multiple purposes of the Cable Act and to follow Congress's wishes that the FCC rely on market forces to the maximum extent feasible in its regulation of the cable industry.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

RECEIVED
JUN 29 1994
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Implementation of Sections of)	MM Docket No. 92-266
the Cable Television Consumer)	
Protection and Competition)	
Act of 1992: Rate Regulation)	

COMMENTS ON COMMERCIAL RATES

Continental Cablevision, Inc. ("Continental") and KBLCOM, Incorporated ("KBLCOM"), hereby submit these comments in response to the Commission's Fifth Notice of Proposed Rulemaking ("Notice") in the captioned proceeding. 59 Fed. Reg. 18064 (April 15, 1994). Continental currently is the third largest multiple system operator in the United States and serves nearly 3 million basic subscribers in 16 states and over 650 communities across the United States. KBLCOM is a top 20 multiple system operator and serves over 1.2 million basic subscribers nationwide. The Commission is seeking comment on whether it should establish regulations governing rates for regulated cable service provided to commercial establishments. As set forth below, there are a variety of legal and policy reasons why the Commission should refrain from regulating commercial rates.

I. THE 1992 CABLE ACT DOES NOT APPLY TO COMMERCIAL RATES.

Section 623 of the Cable Act permits franchising authorities to regulate rates for the provision of basic cable service to "subscribers." 47 U.S.C. §543(a). The term "subscriber" is specifically defined in the FCC's rules. A "subscriber" is "a member of the general public

who receives broadcast programming distributed by a cable television system *and does not further distribute it.*" 47 C.F.R. §76.5(ee) (emphasis added). "Subscriber" thus refers to a residential customer. A commercial client who purchases cable wholesale and further distributes it, on the other hand, clearly is not a "subscriber" and the rates for the transaction should not be regulated.

Indeed, nowhere does the Cable Act or its legislative history evidence concern over, or even mention, rates for commercial clients. Where a statute is silent as to a particular issue, questions of interpretation are illuminated by legislative intent. See Watters v. Pelican Intern., Inc., 706 F. Supp. 1452 (D.Colo 1989). As is manifest in its title, the Cable Consumer Protection and Competition Act of 1992 was established to protect residential consumers. See, e.g., S. Rep. No. 92, 102d Cong., 1st. Sess. 3 (finding that cable service is available to almost 90% of the "**homes**" in the country, and over 60% of these "**households**" subscribe to cable service); 8 (expressing concern that only a small percent of cabled "**homes**" were protected by rate regulation under Commission's 1991 definition of effective competition); 73 (limiting the scope of rate regulation to "**retail rates**" charged to subscribers); 81 (directing the FCC to promulgate cross-ownership restrictions if 10% of "**households**" subscribe to direct to home satellite service); H.R. Rep. No. 628, 102d Cong., 2d Sess. 29-30 (discussing number of "**households**" served by cable and its competitors); 78 (explaining that cable systems provide the most effective access to "**households**" that subscribe to cable); 83 (instructing that the Commission's formula for regulated equipment rates should consider differences in labor and material costs for the wiring of "**private homes**" and "**multiple dwelling units**"). By comparison, the legislative language and history of the 1992 Cable Act make no reference to

any concern with commercial cable rates, nor seek any particular solution. There is thus absolutely no legal basis upon which to conclude that Congress intended to regulate the rates charged to commercial clients.

II. THERE ARE NO POLICY REASONS TO REGULATE COMMERCIAL RATES.

A. How And Why Commercial Rates Are Set Today.

1. Office Buildings

In the view of Continental and KBLCOM, notwithstanding the fact that Congress did not intend to regulate the cable rates to commercial establishments, there is no need for regulation of such rates. To properly understand the "commercial rates" issue, some background is helpful. The commercial cable services market consists of several different segments. The first segment of the market is offices, office parks, and downtown commercial establishments. Because cable initially was viewed as an entertainment medium, most cable systems were built to serve only the residential sections of their franchise areas. Cable operators placed lines and spaced amplifiers for service to homes, not businesses. Now, however, business clients such as advertising agencies and securities firms also want cable services. This is still a newly emerging market for cable operators. It is the urban frontier waiting to be wired.

To date, Continental and KBLCOM serve significantly less than 10% of the commercial establishments in their respective service areas. In an attempt to expand its operations into this untapped market, KBLCOM has even created a separate unit, Paragon Business Systems, exclusively dedicated to serving commercial clients through state-of-the-art

transmission technology. Continental and KBLCOM recognize that cable serves a different function in the commercial market. For instance, distribution and wholesale companies require precision delivery schedules and streamlined inventories to successfully anticipate the respond to market needs. Retailing, manufacturing, and advertising firms must constantly monitor changing consumer tastes, trends, and information. Construction companies need to constantly monitor weather conditions prior to scheduling projects that could be impaired by inclement conditions. To serve these varied needs, Continental and KBLCOM offer commercial clients up-to-the-minute news and information crucial to making timely business decisions. For many commercial clients, cable, in many respects, serves a function similar to that of computer service which, of course, is entirely deregulated.

Despite new interest from the business community, due to the tremendous costs involved, the commercial market is a far more complex and troublesome one for cable operators to serve than the residential market. For example, office buildings typically are located in areas that are far removed from the existing cable infrastructure. Wiring office buildings is thus not just a matter of constructing a simple line extension. Major construction is required. In Continental's experience, most commercial areas must be wired underground, which is 7 to 8 times more expensive than aerial wiring. Extending plant is not only very expensive, but the prospective client density is often much lower in commercial developments than in residential passings. Operators therefore extend plant to office buildings only when there is a customer or group of customers who are willing to pay a premium for cable service. Otherwise, the economics make providing service otherwise unworkable.

The price of service to office buildings reflects the fact that an operator's costs are dramatically higher for network expansion to and within commercial areas. In addition to enormous main line construction expenditures,¹ installation costs also are higher for office buildings. Construction material costs often are higher due to building and fire code requirements. In wiring high rise office buildings, for example, Continental typically is required to use "plenum cable," a type of cable that is insulated with special fire retardant materials. Plenum cable costs between 4 and 5 times more than the normal coaxial cable used to wire residential units. Building management rules also often require that work be done off-hours, which significantly increases labor costs. Outlet location access is often more difficult and time-consuming, and routing through commercial areas involves more obstacles than do residential areas. These more costly installations require a specialized group of highly trained professionals to coordinate the many activities, ranging from marketing to construction to servicing customers, associated with this work. The typical customer service representative does not possess the financial and technical expertise to conduct such a sophisticated business negotiation.

For example, a downtown law firm calls a cable operator for service. A commercial sales representative dedicated to this activity visits the property, completes a service application, and conducts a site survey which indicates that the site requires sixty (60) feet of underground cable to be placed through a parking lot, across a concrete sidewalk then into the basement of the building adjacent to the potential customer. The owner of this adjacent building must be located to request an easement so the cable operator can go through his

¹ Main line construction expenditures include the major links (or trunks) from the headend to the local service areas. They constitute the backbone of the cable system.

basement with its wires and conduits to feed the potential customer. The law firm is located on the fifth floor, no wiring can be placed on the outside of the building, and a bank with cherry paneling occupies the first floor. Thus, the cable operator has to "fish" the walls to reach the customer.² Moreover, the building requires that its technicians supervise any installation, and that work be done after business hours.

These installation costs alone make the prospect of serving an office extremely expensive. In addition to these costs, a significant amount of work and time will go into the survey, electronic design, and construction of the operator's facilities to reach the customer. City and state construction permits also need to be obtained.³ Of course, the customer wants an itemized proposal prior to construction, which the sales representative will prepare. All of these activities add to the cost to serve the customer. Between 25-30% of the time, these high installation and preparatory costs result in the customer deciding *not* to subscribe to cable. An operator must be permitted to recover these preparatory costs through its commercial rates.⁴

The enormous costs of extending plant to serve commercial accounts makes cable service very susceptible to competition by wireless technologies, such as satellite master

² "Fishing" the wall entails drilling holes at the top and bottom of the wall, inserting the cable through the top hole, and running the cable through the hollow space in the wall until it comes out the bottom hole. This process is very labor intensive and is thus much more expensive than simply running cable along the outside of the wall.

³ Even though the permits do not have a large cost, there are labor costs associated with personnel visits to the proposed location to prepare the permit application. The extension then must be designed to the specifications required by the city or state agency. In many cases, the request may have to be submitted to an agency multiple times.

⁴ An actual cost estimate of the Medical Arts Building project being constructed by KBLCOM's Paragon Business Systems unit is attached hereto as Exhibit 1.

antenna service ("SMATV") and emerging direct broadcast satellite ("DBS"). A large office may cost several thousand dollars to feed, as well as many thousands to wire internally. In a competitive market, rather than charging one enormous up front payment, a portion of this cost often must be amortized over time as part of the commercial user's service rate. In the experience of Continental and KBLCOM, the flexibility to enter into a multi-year agreement with the client is thus essential to ensure that the cable operator will be able to recover the capital costs of the project.

In light of these higher costs, capital costs plus a reasonable rate of return must be recovered in installation and/or monthly fees. Attached hereto as Exhibit 2 is a plant extension formula developed by KBLCOM's Paragon Business Systems unit. The Paragon formula illustrates how office building projects are bid on a case-by-case basis, where the project will not be constructed if a specified return from that project is unavailable. Paragon incorporates a perpetuity value factor into its financial analysis. This value takes the form of modeling additional cash flow years above and beyond that for which potential client contracts have been identified. The perpetuity value factor recognizes that expanding the cable network carries some implicit value to the operator in the event the commercial client prematurely breaches its service contract or fails to renew its service. Specifically, in the case of a 5 year contract, Paragon's internal procedures allow it to model 7.5 years of cash flows. Paragon's investment objectives require a positive net present value ("NPV") at a 13% internal rate of return ("IRR"). In the great majority of cases, this perpetuity factor alone drives the financial viability of the commercial project. Without it, Paragon would refrain from undertaking the capital commitment.

For example, Exhibit 2A is a copy of Paragon's investment model for its Medical Arts Building project, which it undertook this spring. Although the contract is for 5 years, the model is run for 7.5 years. The IRR is 17.3% with a NPV at 13% of \$955, on a capital outlay of \$10,136 (including mainline construction and installation costs). The project is thus acceptable under the model. Exhibit 2B, on the other hand, is a copy of Paragon's investment model for its Medical Arts Building project run for just 5 years (i.e., eliminating the perpetuity value factor). Here the IRR drops to 5.7% with a NPV at 13% of \$(1,171).⁵ Hence, under Paragon's model, the operator is not even securing an 11.25% rate of return during the term of the contract, which is the minimum return that the Commission has afforded cable operators under the interim cost-of-service rules. See Report and Order and Further Notice of Proposed Rulemaking, MM Docket No. 93-215, FCC 94-39 (released March 30, 1994) at ¶147.

In a competitive market, perpetuity values are not only widely used in valuing financial investments, but they are often driven by an extremely aggressive set of assumptions as well. Not surprisingly, companies are far more likely to take risks when they are not restricted as to the potential financial rewards to be gained therefrom. Once artificial constraints such as regulation enter the equation, however, the decision makers become far more risk adverse and the decision criteria become much more conservative. Again, the wiring of office buildings for video service is a new market only now being developed, and cable operators are at a significant cost disadvantage. Simply put, cable operators must be given the incentive to undertake the enormous financial risks to build out their systems to

⁵ Due to its voluminous nature, Exhibit 2B only contains a summary of the capital evaluation model run for 5 years. The complete model will be made available to the Commission upon request.

compete with telephone companies in the creation of the information superhighway.

2. Bars and Restaurants

The second segment of the commercial market are sports bars, taverns and restaurants. When these establishments are not passed by residential plant, they exhibit the same characteristics as the office segment of the market. Plant must be extended at an enormous cost to the operator and thus to the client. In any event, cable rates for sports bars, taverns and restaurants are based on fire code capacity rather than a single residential user charge. This pricing mechanism reflects the fact that service to commercial establishments is a *wholesale* transaction. Unlike residential subscribers, commercial users of cable service are not the final consumers. Bars and restaurants resell this bulk service to their customers through the price of food, drinks, and cover charges. Cable service also is used in the commercial market to provide an amenity for customers (*i.e.*, in doctors offices), and to provide valuable information for business purposes (*i.e.*, in financial offices). As a result, commercial users have always been subject to different pricing structures than residential users.⁶

This "fire code capacity" model is predicated on music publishing license fee arrangements. The American Society of Composers, Authors and Publishers ("ASCAP") and Broadcast Music, Inc. ("BMI") base their license fees on "the total allowable occupancy of

⁶ In fact, unlike a residential subscriber, the commercial user is able to write the cost off as a business expense.

the premises under local fire or similar regulations."⁷ This model is followed by pay-per-view and cable music companies as well as by DBS companies.⁸

The market for sports bars, taverns and restaurant accounts already is very competitive. Alternative video distribution options, such as wireless cable, SMATV, and home satellite dishes, have been long-time competitors of cable operators in this segment of the commercial market. For example, sports services such as the New England Sports Network cost a medium sized bar in Springfield, Massachusetts \$900.00 per year by contract through the Satellite Sports Network's SMATV operators. This same service is available from Continental for \$75.00 per month (or \$900.00 per year). Cable has no pricing or programming advantage and often has higher installation costs than its competitors. As a result, cable has a limited share of this segment of the market. For example, Continental Cablevision of Western New England, with 146,000 subscribers, maintains approximately 60% of the bars in its service area as clients. Of the remaining bars, 35% subscribe to SMATV service and 5% have antenna only service. In Jacksonville, Florida, where Continental operates, SMATV currently serves 60% of bars and over 95% of the sports bars. DBS, moreover, promises to be an even more formidable competitor in all segments of the commercial market. These wireless technologies have a distinct advantage over cable in most commercial areas because there is no existing cable infrastructure. It is far more expensive for a cable operator to extend its plant to a commercial establishment than it is for a wireless

⁷ See ASAP 1994 Rate Schedule and BMI 1994 License Fee Schedule, attached hereto as Exhibits 3 and 4, respectively.

⁸ See Declaration of Marcus W. Corwin, President of That's Entertainment, Inc., attached hereto as Exhibit 5; Satellite Orbit (May 1994) at B2, attached hereto as Exhibit 6.

competitor to install a dish or an antenna. Because the Commission's program access rules ensure that all video providers are able to offer the same programming services, cable operators have no programming advantage. Moreover, these alternative video providers do not pay franchise fees and are not bound by other franchise related requirements. Hence, they generally have lower costs and more pricing flexibility than do cable operators. Despite all this, SMATV rates for bars are actually higher than Continental's in many areas such as Jacksonville.

3. Hotels and Motels

The third segment of the commercial market is hotels and motels. Hotels and motels are typically separately negotiated, but must cover the higher costs of installation. For example, costs range between \$2,100 and \$14,500 just for the internal wiring of a 50-350 room hotel. Like other commercial establishments, prices for service to hotels and motels reflect the wholesale aspect of the transaction. The availability of cable becomes a selling point for many hotels and motels. In addition, they derive additional revenues from pay-per-view devices, such as Spectradyme or World Cinema. Because commercial rates for hotels and motels are subject to vigorous competition, they possess far greater bargaining power than an ordinary residential subscriber in negotiating cable rates, and very often choose non-cable alternatives. For example, in its typical service territory, Continental provides service to 40% of the hotel/motel market, whereas SMATV and PPV providers such as Spectradyme control the other 60%. In addition, 10% of the hotels/motels served by Continental typically have PPV and/or SMATV service for pay movies. Hotels/motels routinely choose among cable, PPV and SMATV, or a combination of all three, when they shop for video services.

To date, the Commission's concern with bulk rates has been that discounted rates not be abused as a means of displacing alternative multichannel video distributors. See Report and Order and Further Notice of Proposed Rulemaking, 8 FCC Rad 5631 (1993) at ¶424.

The Commission has thus indicated that it is concerned about *underpricing* and has set the *floor* for bulk rates. This is a clear indication that in a competitive environment such as the market for video service to hotels and motels, overcharges are not likely.

In short, the commercial market is very competitive. It also is an area where cable operators operate at a distinct disadvantage, due mainly to the costs associated with the line extensions necessary to reach a commercial account. This is where the wireless technologies have few problems reaching a business. With program access and no franchise fees or other obligations, wireless companies are formidable competitors in the commercial video market. In such a competitive environment, operators require complete pricing flexibility, not more regulation, to attract potential clients.

B. There Is A Difference Between Wholesale And Retail Transactions.

As discussed above, cable operators provide service to their commercial clients on a wholesale basis. This is a very different type of transaction than the provision of service to residential subscribers. For instance, suppose a cable operator interconnected its headend with an adjacent system and sold its signal in bulk. The adjacent system is reselling the service at retail. The supply of the signal is a deregulated wholesale transaction for which there is absolutely no need or justification for Commission involvement. Similarly, service to commercial clients are wholesale transactions, where the signal is being resold, albeit in the

price of a beer, a securities commission, or a doctor's bill. The Robinson Patman Act draws a distinction between wholesale and retail pricing. See 15 U.S.C. §13(a). For example, in Mennen Co. v. Federal Trade Commission, 288 F. 774 (2nd Cir.), cert. denied, 262 U.S. 759 (1923), a manufacturer of toothpaste, shaving cream, and other toilet articles provided a discount to wholesalers which it denied to retailers, regardless of the quantity purchased by a retailer or an aggregation of retailers. The court held that the company's discount to wholesalers was not unfair competition because a wholesaler does not sell to the ultimate consumer. Id. at 781-82. The Commission's own program access rules also recognize this legitimate distinction. See First Report and Order, 8 FCC Rcd 3359 (1993) at ¶105. Indeed, even telephone rates distinguish between business and residential users. For example, in Washington, D.C., Bell Atlantic charges business users a flat fee of \$16.80 per line per month plus \$0.7 per call, compared to a flat fee of \$6.93 per line per month plus \$0.7 per call for residential users.

C. Commercial Rates Should Be Left To The Marketplace.

As previously explained, the commercial cable services market represents the urban frontier waiting to be wired. Unlike residential subscribers, offices typically use cable as more of a business tool than as an entertainment medium. There is absolutely no evidence of monopoly abuse in the commercial market. On the contrary, the market already is very competitive and will only become more so with the launch of DBS. Indeed, the enormous costs involved in extending plant place cable at a unique disadvantage in serving commercial establishments. The Commission should follow the Congressional policy in enacting the

Cable Act of "rely[ing] on the marketplace, to the maximum extent feasible" to "promote the availability to the public of . . . information through cable television and other video distribution media." Cable Television Consumer Protection and Competition Act, Pub. L. No. 102-385, §2(b), 106 Stat. 1460 (1992). As Chairman Hundt recently stated: "[c]reating choice through competition is the constant theme in everything we do. . . . In short, the right government policy is competition, not business management." Statement of Chairman Reed E. Hundt before the Wertheim Schroder/Variety Media Conference, Public Notice, Mimeo No. 42604 (released April 12, 1994).

Instead of regulating commercial rates, the FCC should be encouraging operators to wire the urban frontier and to further the creation of the information superhighway in competition with wireless and telephone companies. In the words of Chairman Hundt:

[I]t is critically important that the Cable Act be implemented not only in full compliance with the Congressional intent but also with a recognition of the necessity that the cable industry needs a fair opportunity to continue its remarkable growth and evolution. I absolutely refuse to be misunderstood on my direction. I am for this goal: Your growth and your future should be determined by your customers, your competitors and your creativity; not by regulators and courts.

Statement of Chairman Reed E. Hundt before the 43rd Annual Convention & Exposition of the National Cable Television Association, New Orleans, Louisiana, May 24, 1994. Only if operators are given the economic flexibility to compete with alternative video providers to serve commercial accounts will they have the incentive to extend their networks to eventually compete with the telephone monoliths. Continental and KBLCOM undoubtedly will abandon their plans to extend the infrastructure of their systems to serve commercial clients if the

economic incentive to serve commercial clients is destroyed through undue regulation. This must not be permitted to happen. The Commission should wholeheartedly encourage cable expansion into competitive territory by leaving commercial rates unregulated.

D. Not Regulating Commercial Rates Serves The Public Interest.

The Commission's Notice narrowly focuses on a mechanism for offsetting higher earnings for commercial establishments by lower rates to residential subscribers. Notice at ¶257.⁹ A subscriber offset, however, is not needed to justify permitting commercial rates to vary from residential rates. As we have established above, commercial rates arise from wholesale transactions, and are not classes of regulated retail services. But even if one were to dispute that view, "sharing" of cable commercial and residential revenue streams is unnecessary because residential subscribers already receive an implicit benefit from the exclusion of commercial rates from regulation. Because of the significantly greater costs of serving commercial buildings, including commercial accounts in an operator's rate base would result in higher rates for residential subscribers under the current rate regulation regime. For operators electing the cost-of-service approach, if plant expansion occurred at all, the additional mainline and installation costs would be included in the rate base, thereby increasing the permitted rate under the rules. See 47 C.F.R. §76.922(g)(6)(i). For operators electing benchmark regulation, the inclusion of higher commercial rates would cause the regulated revenues per subscriber as of September 30, 1992 to increase, thereby raising the absolute

⁹ The subscriber sharing notion suggested in the FCC's Notice comes from telephone regulation and cannot rationally be applied to cable. Unlike the local telephone market, the cable commercial account market is very competitive.

level of an operator's full reduction rate under the Commission's rules. See 47 C.F.R. §76.922(b)(2). In other words, the starting point for the 17% reduction will be higher with the inclusion of commercial rates than it is under the present system.

Fundamentally, the Commission needs to focus on the multiple purposes of the Cable Act.¹⁰ These purposes include development and expansion of the broadband network to businesses and residences.¹¹ Commercial accounts currently constitute less than 5% of our Continental and KBLCOM's cable revenues, but should grow if cable is to continue to wire the nation and create a broadband network. The Commission would far better serve this objective and more usefully deploy its limited resources by retaining its focus on residential ratemaking before regulating an aspect of cable service that is not called for by the Act and has not been demonstrated or acknowledged as a problem requiring a solution.

III. CONCLUSION

The 1992 Cable Act was designed to protect residential consumers. Nowhere does the Act or its legislative history indicate that Congress was concerned with the rates charged to commercial cable clients. Moreover, there is no cause to regulate commercial rates. Because there is no cable infrastructure in most commercial areas, the commercial cable services market is much more expensive and complex for cable operators to serve. Combined with the aggressive marketing of SMATV and other wireless operators, the commercial market is very

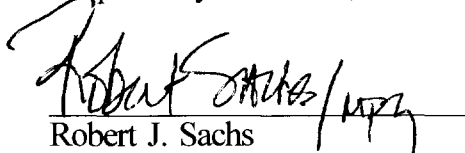
¹⁰ See Petition For Expedited Reconsideration filed by Public Interest Petitioners on May 16, 1994 at pp. 6-7 ("Rate regulations undoubtedly are an important part of the law, but they were by no means the preeminent concern of Congress -- at least as that concern was expressed in the statute.")

¹¹ See 47 U.S.C. §521(4) (the purpose of this title is to "assure that cable communications provide and are encouraged to provide the widest possible diversity of information sources and services to the public.").

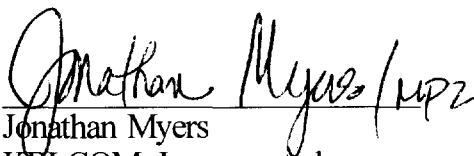
competitive and regulation is unnecessary. Furthermore, cable operators must be given the incentive to extend their networks to construct the information superhighway and to compete with the alternative video providers and telephone companies for commercial clients.

For the foregoing reasons, Continental and KBLCOM recommend that the Commission conclude that the rates for cable service provided to commercial establishments should not be regulated.

Respectfully submitted,



Robert J. Sachs
Howard B. Homonoff
CONTINENTAL CABLEVISION, INC.
The Pilot House
Lewis Wharf
Boston, MA 02110
(617) 742-9500



Jonathan Myers
KBLCOM, Incorporated
1200 Smith Street
Suite 1800
Houston, TX 77002
(713) 659-5411



Wesley R. Heppler
Paul Glist
Matthew P. Zinn
COLE, RAYWID & BRAVERMAN
1919 Pennsylvania Avenue, N.W.
Suite 200
Washington, D.C. 20006
(202) 659-9750

June 29, 1994

EXHIBIT 1

PARAGON BUSINESS SYSTEMS

PROJECT PLAN

MPLS: X SW:

LOG: OPEN: LOCAL# 1419
HOLD: CLOSED: PROJECT# *PN 4021419*

PROJECT NAME: MEDICAL ARTS BUILDING

(PROJECT DESCRIPTION)

The purpose of this project plan is to secure the capital necessary to wire, splice and activate the Medical Arts Building project in Minneapolis, Minnesota.

This project involves the placement of 506 feet of mainline plant.

BUDGETED:	<u>7735.47</u>	UNBUDGETED:	<u>0</u>	TOTAL AMOUNT:	<u>7735.47</u>
			THIS PHASE	PREVIOUS PHASE	TOTAL
BUDGET:			7735.47	0	7735.47
PROJECT PLAN:			7735.47	0	7735.47

FINANCIAL

INHOUSE LABOR: 400
CONTRACT LABOR: 1258.5
MATERIALS: 4750.17
OVERHEAD INHSE: 320
OVERHEAD CONT: 1006.8
DISPOSALS: 0
RECIEVABLES: 0

PROJECT STATISTICS

NO.HOMES PASSED: _____
NUMBER NEW LOTS: _____
NUMBER OF MILES: 0.1
POSTED CUST./YEAR: _____
COST/HOMES PASSED: _____
COST/MILE: 80,718

TOTAL PROJECT TO DATE: 7735.47

REQUIRED WITH SUBMITTAL

☒ FINANCIAL JUSTIFICATION
☒ BILL OF MATERIALS
☒ RFP & BIDS
☒ DESIGN PRINTS
☒ DESCRIPTION OF PRODUCT
☒ TIMING OF EXPENDITURES

VALUE ADDED INFORMATION

☒ CONTRACTS & AGREEMENTS
☐ CVT/SUB WIRING REQ.
☐ GANT CHART/CRITICAL PATH
☐ BLOCK DIAGRAMS
☐ RESOURCE ALLOCATIONS
☐ LABOR COST SCHEDULES
☐ E.O.L. PERFORMANCE SPEC
CALCULATIONS
☐ EARNED BENEFIT
MONITORING SCHEDULE

AUTHORIZATIONS:

PARAGON BUSINESS SYSTEMS:

GROUP V.P., Richard Clevenger
GEN. MGR., Richard Parran

PARAGON CABLE:

E.V.P.&G.M. Wayne Knighton
DEPT.DIR., Matt Haviland
PROJECT MGR., Steve McGinnis
DEPT.MGR., Jim Schulz
ORIGINATOR, Joseph Thill

SIGNATURE/DATE

[Signature] 1/6/94
[Signature] 1/21/94
[Signature] 1/21/94
[Signature] 1/21/94

KBLCOM/DATE

[Signature] 1-27-94
[Signature] 5/21

PROJECT

Date: 01/06/93

TIMING OF EXPENDITURES FOR 1994

PROJECT NAME: MEDICAL ARTS BUILDING

MONTH	IN-HOUSE LABOR	CONT. LABOR	MATS.	IN-HOUSE OVERHD	CONT. OVERHD	RECEIVE	TOTAL:
JAN.	400.00			320.00		0.00	720.00
FEB.		1258.50	4750.17		1006.80		7015.47
MAR.							
APR.							
MAY							
JUNE							
JULY							
AUG.							
SEPT.							
OCT.							
NOV.							
DEC.							

RECEIVABLES: 0.00GRAND TOTAL: \$7,735.47

PROJECT

12-14-93

BILL OF MATERIALS REQUEST FORM (3-7-93)		MAT REQ #:
PROJECT NAME/ADDRESS: MEDICAL ART BLDG., 825 Nicolet		
PROJECT #: Mall. MPLS		PULLED BY:
LOCAL #: 1419		
MULTI-UNIT#:		PICKUP DATE:
BRIDGER #: 017		RECEIVED BY/DATE:
# OF UNITS:		
MAP#: MSS-34, MPLS		PLEASE PRINT NEATLY

ITEM TYPE DESCRIPTION COST QTY REQ EXT COST ISSUED

ACTIVE MATERIALS

0101300	AMPLIFIER	AMPLIFIER (VIDEO DISTRIBUTION)	EA	118.00			
0101400	ATTENUATOR	ATTENUATER(FIBER/05DB)	EA	10.00			
0101401	2 PAD /TRUNK	ATTENUATOR (FIBER/10DB)	EA	10.00			
0101404		ATTENUATOR (JXP-12A)	EA	3.95			
0101405		ATTENUATOR (JXP-15A)	EA	3.91			
0101406		ATTENUATOR (JXP-3A)	EA	3.95	2	7.90	
0101407		ATTENUATOR (JXP-6A)	EA	3.53			
0101408		ATTENUATOR (JXP-9A)	EA	3.95			
0101500	ADDRESSABLE	ADRESSABLE DECODER (DEC4/51MHZ/60V)	EA	110.07			
0101501		ADRESSABLE TAP (EAS 4AB)	EA	111.30			
0101502		ADRESSABLE TAP (EAS 8AB)	EA	154.46			
0101503		ADRESSABLE TAP (EAS 12AB)	EA	220.35			
0101504		ADRESSABLE TAP (EAS 16AB)	EA	260.28			
		ADRESSABLE TAP (EAS 8A)	EA	104.75			
		ADRESSABLE TAP (EAS 12A)	EA	145.96			
		ADRESSABLE TAP (EAS 16A)	EA	169.76			
0103300	CAMERA ASY	CAMERA ASSY (HOUSING/PELCO)	EA	85.00			
0103301		CAMERA ASSY (HOUSING/RCA)	EA	85.00			
0103302		CAMERA ASSY (LENS/16MM/WO-IRIS)	EA	14.50			
0103303		CAMERA (LENS/6MM W-AUTOIRIS/TC9906)	EA	99.05			
0103304		CAMERA ASY(LENS/8.5MM/COSMICA/C60605)	EA	58.50			
0103305		CAMERA ASY(MOUNT/BURLE/WO HSG/TC9201)	EA	34.00			
0103306		CAMERA ASSY (MOUNT/HOUSING)	EA	41.00			
0103307		CAMERA ASSY (SWICH/SEQUENTIAL VIDEO)	EA	220.00			
0103308		CAMERA(VIDEO CAMERA/BASE/BURLE TC651)	EA	522.00			
0103400	CURRENT DE	CURRENT DEV(CIRCUIT BREAKER/SX/SX55B)	EA	4.79			
0103404		CURRENT DEV(POWER KIT/SX/SX7PKIT-A)	EA	22.95			
0103405		CURRENT DEV(PWR SUP HSG/ALPHA/MPLS)	EA	515.00			
0103406		CURRENT DEVICE(PWR SUP HSG/ALPHA/SW)	EA	260.00			
0103407		CURRENT DEV(PWR SUP HSG/ALPHA/UG/MP)	EA	630.00			
0103408		CURRENT DEV(PWR SUP HSG/ALPHA/UG/SW)	EA	330.00			
0103409		CURRENT DEV (PWR SUP MODULE/ALPHA/MP)	EA	805.00			
0103410		CURRENT DEV(PWR SUP MODULE/ALPHA/SW)	EA	758.31			
0103411		CURRENT DEV(PWR SUP/ALPH/POL MT/14AM)	EA	240.00			
0103412		CURRENT DEV(PWR SUP/ELECTROLN/862MHZ)	EA	72.80			
0103413		CURRENT DEV(PWR SUP/LECTRO/FA000102)	EA	220.00			
		BATTERIES FOR POWER SUPPLIES (12V)	EA	100.77			
0105300	EQUALIZER	EQUALIZER (JLE/SEE450-06)	EA	8.25			
0105301	OLD	EQUALIZER (JLE/SEE450-12)	EA	8.25			
0105302		EQUALIZER (JLE/SEE450-18)	EA	8.25			
0105303		EQUALIZER (JLE/SEE450-24)	EA	8.25			
0105304		EQUALIZER (RETURN/JLX/SEE30-6) LE	EA	5.75			